

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TREAUNA L. TURNER,

Plaintiff,

v.

PALLARES, *et al.*,

Defendants.

Case No. 1:21-cv-01721-JLT-BAM (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR EXTENSION OF TIME TO OPPOSE
MOTION TO DISMISS AS MOOT
(ECF No. 39)

ORDER DENYING PLAINTIFF'S MOTION
TO ALLOW ALL PRIOR PROCEEDINGS TO
BE ELECTRONICALLY FILED UNDER
NEW CASE NUMBER AS UNNECESSARY
(ECF No. 40)

Plaintiff Treauna L. Turner ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's first amended complaint against Defendants Showalter and Mitchell for deliberate indifference to medical care in violation of the Eighth Amendment and against Defendants Showalter, Mitchell, and Freeman for negligence (medical malpractice).

On March 14, 2023, Defendants filed a motion to dismiss Plaintiff's state law claims for failure to comply with the Government Claims Act. (ECF No. 30.) Plaintiff's opposition or other response was therefore due on or before April 7, 2023. Local Rule 230(l); Fed. R. Civ. P. 6(d).

On April 17, 2023, Plaintiff filed a motion requesting a response to her previously-filed motion requesting a ninety-day extension of time to file her opposition to Defendants' motion to dismiss, and renewing her request for a ninety-day extension of time. (ECF No. 35.) The motion was dated April 11, 2023. (*Id.*) The same date, Defendants filed a statement of non-opposition to Plaintiff's request for an extension of time. (ECF No. 36.) The Court also received Plaintiff's opposition to the motion to dismiss, dated April 12, 2023. (ECF No. 37.) In light of Plaintiff's renewed request, Defendants' statement of non-opposition, and the filing of Plaintiff's opposition, on April 19, 2023, the Court granted Plaintiff's request and accepted the opposition as timely filed. (ECF No. 38.)

1 On April 21, 2023, Plaintiff filed a motion requesting that all prior proceedings be
2 electronically filed under the new case number for this action, (ECF No. 40), together with a copy
3 of her original motion for an extension of time to file her opposition, (ECF No. 39). Although
4 Defendants have not yet had an opportunity to file a response to these motions, the Court finds a
5 response unnecessary. The motions are deemed submitted. Local Rule 230(l).

6 Plaintiff's motion for extension of time to file her opposition is denied as moot. As noted
7 above, Plaintiff has already filed her opposition to the motion to dismiss, and it was accepted as
8 timely filed. A further extension of this deadline is not necessary.

9 Plaintiff's request that all prior proceedings be electronically filed under the new case
10 number for this action is also denied, as unnecessary. Plaintiff states that her original motion for
11 extension of time was returned to sender. It appears that Plaintiff believes her motion was
12 returned because it included the old case number for this action, 1:21-cv-01721-AWI-BAM,
13 rather than the new case number, 1:21-cv-01721-JLT-BAM. However, it is not the Court's
14 practice to return mail simply because it includes an old or incorrect case number. Plaintiff is
15 informed that all prior filings in this case are already included in the electronic case file, and all
16 future filings that are received by the Court will be filed under the correct case number. An order
17 for the Court to electronically file these documents under the new case number is not necessary.

18 Accordingly, it is HEREBY ORDERED that:

- 19 1. Plaintiff's motion for an extension of time to file her opposition to Defendants' motion to
20 dismiss, (ECF No. 39), is DENIED as moot; and
- 21 2. Plaintiff's motion to allow all prior proceedings to be electronically filed under new case
22 number, (ECF No. 40), is DENIED as unnecessary.

23
24 IT IS SO ORDERED.

25 Dated: April 26, 2023

26 /s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE
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